

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation of  
Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

J. EZRA MERKIN, GABRIEL CAPITAL, L.P., ARIEL  
FUND LTD., ASCOT PARTNERS, L.P., ASCOT  
FUND LTD., GABRIEL CAPITAL CORPORATION,

Defendants.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

Adv. Pro. No. 09-01182 (SMB)

**DECLARATION OF  
BRUCE G. DUBINSKY, MST, CPA, CFE, CVA, CFF, MAFF**

I, Bruce G. Dubinsky, declare, under penalty of perjury, that the foregoing is true and correct:

1. I am a Managing Director in the Disputes & Investigations practice at Duff & Phelps, LLC (“D&P”). My practice at D&P places special emphasis on providing forensic accounting, fraud investigation and dispute analysis services to law firms litigating commercial cases, as well as corporations, governmental agencies and law enforcement bodies in a variety of situations.
2. I was retained by the law firm of Baker & Hostetler LLP (“Baker”), counsel for Irving H. Picard, Trustee (“Trustee”) for the substantively consolidated liquidation of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act (“SIPA”), 15 U.S.C. §§78aaa *et seq.*, and the estate of Bernard L. Madoff (“Madoff”), to provide forensic accounting analyses and render certain expert opinions and conclusions (“the Assignment”). I submit this declaration and the accompanying Expert Report, dated August 20, 2013 (“Expert Report”), in support of the Trustee’s Memorandum of Law in Opposition to Defendants’ Motions for Summary Judgment.
3. Attached hereto as **Exhibit 1** is a true and correct copy of my Expert Report. I hereby incorporate by reference the contents of my Expert Report and all accompanying appendices and exhibits thereto as my sworn testimony as if fully set forth herein.<sup>1</sup>
4. The opinions rendered in my Expert Report and the bases thereof are detailed in various sections of my Expert Report, including, but not limited to, ¶¶ 12-34 and Appendix B to my Expert Report, which identify (a) the methodology that I employed and/or supervised in connection with the analyses performed, and (b) the sources of information and data that form the basis of my findings, conclusions and opinions.
5. I earned a Bachelor of Science degree in Accounting from the University of Maryland,

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<sup>1</sup> Appendices and exhibits to my Expert Report are available upon request.

College Park, MD and a Master's in Taxation ("MST") from Georgetown University, Washington, D.C. I am a Certified Public Accountant ("CPA"), Certified Fraud Examiner ("CFE"), Certified Valuation Analyst ("CVA"), Certified in Financial Forensics ("CFF"), and a Master Analyst in Financial Forensics ("MAFF"), all in good standing. I was formerly a Registered Investment Advisor Representative.

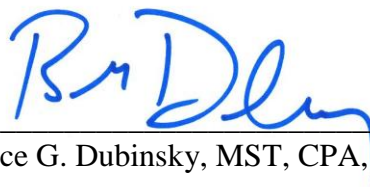
6. I have been qualified and have testified as an expert witness in various federal and state courts in the areas of forensic accounting and fraud investigations, bankruptcy, solvency, commercial damages, business valuations, investment theory, federal and state income taxation, abusive tax shelters, accounting ethics and standards, accounting malpractice, investment advisory issues, and a variety of other financial and tax matters. Additionally, I have professional experience in the area of computer forensics and related computer investigations, and have undergone fraud and forensics training as a CFE, CFF and MAFF.
7. I have also provided testimony on behalf of the United States Department of Justice in the criminal trial of five former BLMIS employees in the case *United States of America v. Daniel Bonventre, Annette Bongiorno, Joann Crupi a/k/a "Jodi," Jerome O'Hara, and George Perez* (Case No. S10 10 Cr. 228 (LTS)). In that trial, I was qualified as an expert in the fields of fraud examination, forensic accounting, and Securities and Exchange Commission ("SEC") fundamentals.
8. A current and accurate copy of my curriculum vitae and Federal Rules of Civil Procedure Rule 26 disclosures are attached hereto as **Exhibit 2**.
9. The opinions and conclusions expressed herein are based upon my understanding of the facts in this case, as well as information gained during the course of D&P's performance of the Assignment. I relied upon my education, training, and over 32 years of professional

experience in reaching the opinions and conclusions herein, all of which are stated to a reasonable degree of accounting certainty.

10. As litigation service engagements performed by CPAs are deemed to be consulting services as defined by the American Institute of Certified Public Accountants (“AICPA”), my work on the Assignment was performed in accordance with the applicable standards as set forth in the Standards for Consulting Services established by the AICPA. Further, as a result of having other relevant professional certifications, I adhered to the applicable standards of those governing organizations in the performance of my work in this matter, and in the rendering of these opinions.

Pursuant to 28 U.S.C. §1746, I declare under penalty of perjury under the laws of the United States of America, to the best of my knowledge that the foregoing is true and correct.

Dated: November 24, 2015  
New York, New York



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Bruce G. Dubinsky, MST, CPA, CFE, CVA, CFF, MAFF